

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Memorandum Order on Second Motion to Dismiss

Presently before the Court is Corey Pollard’s “Motion to Dismiss for U.S. Constitution Sixth Amendment,” in which he argues that the Court should dismiss the charges against him for violating his right to a speedy trial under the Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174. ECF No. 358. The government has filed a Response opposing the Motion. ECF No. 360. Mr. Pollard previously filed a Motion to Dismiss arguing that his right to a speedy trial had been violated, as of the time he filed that Motion on March 22, 2023. ECF No. 317. On May 19, 2023, the Court issued an Opinion denying the Motion, finding that at most eight days of Mr. Pollard’s speedy trial clock had run and that, due to his co-defendants’ Motions, zero days had run off the 70-day speedy trial clock. ECF No. 330 at 19-22. A review of the pleadings filed before and after the Court’s May 19, 2023 Opinion demonstrate that there has not been a violation of Mr. Pollard’s speedy trial rights.

Summary of the May 19, 2023 Opinion

In its prior Opinion, the Court found that Mr. Pollard's speedy trial clock started on February 13, 2020. That same date, an extension of time to file pretrial motions was granted, resulting in excludable delay through March 31, 2020. Mr. Pollard did not file pretrial motions by March 31, 2020, thus the speedy trial clock started on April 1, 2020. Eight days later, on April 9, 2020, the clock stopped again when Mr. Pollard filed a motion for an extension of time to file pretrial motions, which was granted. Thereafter, motions for extension of time to file

pretrial motions were filed on behalf of, and by, Mr. Pollard resulting in excludable delay from April 9, 2020 through September 6, 2022.¹ Between March 3, 2022 and June 4, 2022, Mr. Pollard filed several substantive pretrial motions, which resulted in excludable delay until such motions were resolved, which occurred no later than August 25, 2022. On September 6, 2022, Mr. Pollard filed five additional substantive pretrial motions. He filed two additional motions, with the last one filed on March 22, 2023. Mr. Pollard's seven pretrial motions were resolved by the May 19, 2023 Opinion. As stated, the Court calculated that eight days had run on Mr. Pollard's speedy trial clock as of May 19, 2023. The Court also concluded that "because Mr. Pollard is joined for trial with two codefendants, and because codefendant Kirk Price has been granted extensions of time to file pretrial motions, the speedy trial clock has been stopped from running for all codefendants." ECF No. 330 at 22 (citing (18 U.S.C. § 3161(h)(6)). Therefore, Mr. Pollard's speedy trial rights had not been violated as of the filing of the May 19, 2023 Opinion. The remaining issue is whether his speedy trial rights have been violated since May 19, 2023.

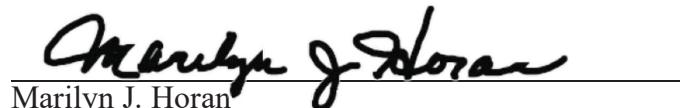
Discussion

On May 20, 2023, Mr. Price filed a motion to extend time to file pretrial motions, which stopped the clock as to all defendants. ECF No. 319. Mr. Price's Motion was granted and the deadline for filing pretrial motions was extended to May 23, 2023. ECF No. 320. On May 23, 2023, Mr. Price sought a one-day extension of time to file pretrial motions. ECF No. 331. The next day, May 24, 2023, Mr. Price filed five substantive pretrial motions. ECF Nos. 333-336, 338. By Order dated July 13, 2023, the Court resolved four of Mr. Price's motions and by

¹ Excludable delay also occurred from July 20, 2021 through November 17, 2021, due to the Court's inquiry as to Mr. Pollard's competency.

separate Order set jury trial to begin on September 20, 2023.² ECF Nos. 352, 353. On August 3, 2023, the Court issued an Opinion resolving Mr. Price's final pretrial motion and the speedy trial clock started running. ECF No. 357. The clock was stopped again on August 16, 2023, when Mr. Pollard file the instant Motion to Dismiss. ECF No. 358. The thirteen days from August 4, 2023 through August 15, 2023 is not excludable time. Therefore, thirteen days have run on the speedy trial clock as to all Defendants. As of the date this Order is filed, the speedy trial clock will begin to run again, but with trial set to begin on September 20, 2023, there cannot be a violation of the 70-day speedy trial clock. Accordingly, the following Order is hereby entered.

AND NOW, this 11th day of September 2023, Mr. Pollard's "Motion to Dismiss for U.S. Constitution Sixth Amendment," ECF No. 358, is DENIED, as the Court finds that there is no violation of Mr. Pollard's right to a speedy trial or violation of his Sixth Amendment rights.



Marilyn J. Horan
United States District Judge

² In the interim, Mr. Price's counsel filed a Motion to Withdraw on June 22, 2023. ECF No. 448. On July 10, 2023, a hearing to address said Motion was held, at which the Court granted counsel's oral motion to withdraw the prior Motion to Withdraw as counsel for Mr. Price. ECF No. 351. The time between June 22, 2023 and July 10, 2023, would also be excludable.